

# Registration of Transfer of Land Rights in the Justice-Based Indonesian Legal System

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## Abstract

The transfer of land rights is one of the events and/or legal actions which resulted in the transfer of land rights from the owner to the party other. The transition can be intentional due to legal actions such as: buying and selling, leasing and so on, and also not intentional because of this legal events such as the transfer of rights due to inheritance. This study aims to analyze the current construction of regulation on the registration of transfer of land rights, and find the Registration of Transfer of Land Rights in the Indonesian Legal System Based on the Value of Justice. This type of research is qualitative research. This research uses a social legal research approach. The type of data used is primary and secondary data. Data analysis was done through descriptive analysis. The results of the study found that the registration of the transfer of land rights in not guaranteeing legal certainty and based on the value of justice. This is influenced by the land registration system used in Indonesia in the form of a negative publication system with a positive tendency. In a negative registration system (negative system) with a positive tendency, the government does not provide guarantees for legal certainty for holders of legal evidence (certificates). The government is also not responsible for the data and information contained in land rights certificates. Data and information are considered correct as long as no other party is suing. So it is necessary to reconstruct the regulation of the transfer of land rights from a negative system to a positive system.

**Keywords:** Transfer of land rights; justice; registration; legal system.

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## A. INTRODUCTION

Human life in the current era is certainly different when compared to life 20 years ago, where in this day and age the need for land is never separated, because land is a place for humans to live life and obtain benefits in continuing their life, and land has a very strategic role in meeting human needs. With the increase in community activities to utilize the land, it has encouraged regulations concerning land, which must be used and utilized for the welfare of the community, bearing in mind that land is a natural resource that cannot be increased. Therefore every human being always needs land as a source of life, besides that because of the progress of time and population density, so that for now land is also partially converted for public purposes where the land or land is converted into a toll road, for the smooth flow of traffic, to connect one city to another, According to Muhammad Bakri, land is one of the most important natural resources for human life, not only because of its function as a factor of agricultural production, but also because of its socio-cultural function. For example, land

ownership/control greatly influences a person's social status in society. This means that the wider the land owned/controlled, the higher the social status, the narrower the area of land owned/controlled, the lower the social status [1].

The transfer of land rights is one of the events and/or legal actions which resulted in the transfer of land rights from the owner to the party other. The transition can be intentional due to legal actions such as: buying and selling, leasing and so on, and also not intentional because of this legal event such as the transfer of rights due to inheritance. Muhammad Yamin Lubis said that if there is an intentional and agreed will on a piece of land, then there is a transfer of rights over the land. If the transfer is forced by the authority and power of the State then it is said to be revoked or may be nationalized. And this must also meet the

<sup>1</sup> Muhammad Bakri, *Hak Menguasai Tanah Oleh Negara, Paradigma Baru Untuk Reformasi 1 Agraria*, (Yogyakarta: Citra media, 2007), p.203.

requirements, because there is termination of the legal ownership relationship in it [ <sup>2</sup> ]. These provisions explain that the transfer of land rights is a legal event/action which results in the transfer of rights from one legal subject to another, thus causing the loss of authority over the land. One way to control or have land rights is through a buying and selling process.

The definition of buying and selling according to the provisions of Article 1457 of the Civil Code (KUHPerdata) is an agreement whereby one party promises to bind himself to surrender an object and the other party promises to pay the price that has been agreed upon.

In the Indonesian legal system, legal procedures for buying and selling are also regulated in customary law, where legal arrangements for buying and selling land which result in the transfer of land ownership rights from the seller to the buyer are called free sales.

Buying and selling has two subjects, namely the seller and the buyer, each of which has obligations and various rights, so in some cases each of them is an obligatory party and in other matters is a entitled party. This relates to the reciprocal nature of the sale and purchase agreement (*Werdering overeenkomst*) [ <sup>3</sup> ]. The object of buying and selling here is the right to the land to be sold. In practice it is called buying and selling land.

The land rights being sold, it is true that the purpose of buying land rights is so that the buyer can legally control and use the land, but what is being bought (sold) is not the land, but the land rights [ <sup>4</sup> ]. The system of buying and selling land in customary law adheres to a cash/concrete/clear/real system, meaning that every relationship must be visible. This is because indigenous peoples are still very simple, so that in a land sale transaction it is only binding if the transaction is seen concretely and has actually occurred, namely evidenced by an exchange, in the form of handing over land as an object and at the same time handing over cash in cash as payment.

In the provisions of Article 37 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration, it states that every transfer of land rights through buying and selling, grants, capital injection in companies and other legal actions for transferring rights, can only be registered if it can be proven by a deed drawn up by the Making Official

Land Deed (PPAT) except auction. "The UUPA also stipulates that every transfer, abolition and encumbrance with other rights must be registered according to the provisions of Article 19 paragraph (1) UUPA which is strong evidence regarding the elimination of property rights and the legality of the transfer and encumbrance of consumer rights from public" [ <sup>5</sup> ]. From the provisions above, an understanding can be drawn that every time there is a transfer of land rights where the basis of the rights has been certified, in the transfer of land rights a deed must be drawn up by and before the Land Deed Making Officer (PPAT). This is intended to provide guarantees of protection and legal certainty for the parties. If a sale and purchase agreement is not made before the Making Official The land deed (PPAT) of the sale and purchase agreement is still valid for the parties, but if there is no deed of sale and purchase, the transfer of rights to the land cannot be registered at the land office.

Based on Article 32 Paragraph 2 of Government Regulation Number 24 of 1997 concerning Land Registration, a certificate that has existed for 5 years with an element of good faith cannot be contested. Meanwhile, looking at the cases where there are many certificates that have arisen for more than 5 years, they can still be sued. The problem is how is the implementation of Article 32 paragraph (2) PP number 24 of 1997 concerning land registration, what are the considerations of judges in deciding cases related to article 32 paragraph (1) 2) PP number 24 of 1997 concerning land registration, this study aims to find out the implementation of Article 32 Paragraph 2 PP Number 24 of 1997 concerning Land Registration. Because it examines Government Regulations related to Certificates arising for 5 years, the approach used is the Statutory Approach, concept approach, and case approach, the results of this study. First, there are 4 elements in Article 32 paragraph 2, namely 1. Withdrawal of rights 2. The certificate element arises for 5 years 3. The element of good faith 4. The element of occupying land continuously, in cases that occur there are 3 elements that are fulfilled, namely the element of acquisition of rights obtained d From the sale and purchase, then the element of the certificate has existed for 5 years, and the certificate has appeared since 1979, the element of good faith, in the buying and selling process the plaintiff can be said to be a good faith buyer. However, the judge did not use Article 32 Paragraph 2 in deciding the case. Second, the judge only considered the element of not occupying land continuously, which was carried out by the plaintiff, while the plaintiff had a valid certificate, which was issued by the BPN (National Land Agency). and won the defendant who occupied the land.

<sup>2</sup>Muhammad Yamin Lubis. 2008. *Hukum Pendaftaran Tanah*. Mandar Maju. Bandung, p. 27

<sup>3</sup> Idris Zainal. *Ketentuan Jual Beli Menurut Hukum Perdata*. Fakultas Hukum USU. Medan, hp 36

<sup>4</sup> Effendi Perangin-angin. 1994. *Praktek Jual Beli Tanah*. Raja Grafindo Persada. Jakarta.p.8

<sup>5</sup> Budi Harsono. 1982. *Hukum Agraria Indonesia Sejarah Pembentukan UUPA, Isi dan Pelaksanaannya*, Djambatan. Jakarta. hp 117

With the enactment of Government Regulation Number 18 of 2021, it has automatically revoked and declared null and void Government Regulation Number 24 of 1997. According to the provisions of Government Regulation Number 18 of 2021, regarding rights to manage land rights, apartment units, and land registration, article 1 paragraph 9, Land Registration is a series of activities carried out by the Government continuously, continuously and regularly covering the collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land, space Land, basement and apartment units, including the issuance of certificates of proof of title for plots of land, above ground, basement which already have rights and ownership rights to apartment units and certain rights that burden them.

Based on the background of the problem above, it is interesting to conduct research on the current construction of registration regulations for the transfer of land rights, and how the registration of the transfer of land rights in the Indonesian legal system is based on the value of justice.

## B. RESEARCH METHOD

In this study, the discussion is only limited to the discipline inquiry paradigm, which is a basic belief that is used by various groups to search for the truth of reality into a particular science or discipline [6]. The paradigm in this study is constructivism, in this study the law is seen as a plural and diverse reality [7]. Law lies in the mental construction of everyone who has different individual and social experiences including experiences between researchers and informants, so that the law is diverse and plural. This type of research is qualitative research [8]. This research uses a social legal research approach [9]. The type of data used is primary and secondary data. Data analysis was done through descriptive analysis [10].

<sup>6</sup> Agus Salim, *Teori dan Paradigma Penelitian Sosial, Dari Denzin Guba dan Penerapannya*, (Yogyakarta:Tiara wacana Yogya,2001), page 33-34.

<sup>7</sup> Erlyn Indarti, *Orasi Ilmiah: Menjadi Manusia Merdeka: Menggagas Paradigma Baru Pendidikan Hukum untuk Membangun Masyarakat Madani*, Sumber Guba dan Lincoln, page. 24

<sup>8</sup> Anis Mashdurohaturun, Gunarto & Adhi Budi Susilo, The Transfer Of Intellectual Property Rights As Object Of Fiduciary Guarantee, *Jurnal Akta*. Volume 9 No. 3, September 2022.

<sup>9</sup> *Loc.cit*

<sup>10</sup> Anis Mashdurohaturun, Gunarto & Oktavianto Setyo Nugroho Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, *JPH: Jurnal Pembaharuan Hukum*, Volume 8, Number 3, December 2021.

## C. RESEARCH RESULTS AND DISCUSSION

### 1. Construction of Regulations for Registration of Transfer of Land Rights in Indonesia

#### 1.1 Construction Regulations for Registration of Transfer of Land Rights in Indonesia Through Government Regulation Number 24 of 1997

Likewise Article 32 paragraph (1) PP Number 24 of 1997 which states that, "A certificate is a letter of proof of rights that applies as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data in accordance with the data contained in the measurement letter and land title book concerned, so it can be seen the strength of evidence from a certificate of land rights owned by the right holder which is basically guaranteed by law because it is clearly written about the type of right, physical description regarding the land, the burden on the land and legal events related to certain land made/written by the Authorized Officer (Land Office) then the data is considered correct. This means, as long as it cannot be proven otherwise, the physical data and juridical data contained therein must be accepted as correct data, both in carrying out daily legal actions and in court proceedings [11].

Legal Certainty Article 32 Paragraph (2) Government Regulation Number 24 of 1997 Concerning Land Registration Regarding Ownership of Land Rights Certificates In the Elucidation section of the provisions of Article 32 paragraph (2) PP No. 24 of 1997 it is stated that, in a negative publication system, the State does not guarantee the correctness of the data presented. But even so it is not intended to use a purely negative publication system. Apart from that, from the provisions regarding the procedures for collecting, processing, storing and presenting physical data and juridical data as well as issuing certificates in Government Regulation Number 24 of 1997, it is clear that efforts are made to obtain and present correct data as far as possible, because land registration is to guarantee legal certainty. This provision aims, on the one hand, to stick to the negative publication system and on the other hand, to equally provide legal certainty to parties who in good faith control a plot of land and are registered as rights holders in the land book, with a certificate as evidence, which according to UUPA applies as a strong evidence tool. "The weakness of the negative system is that the party whose name is listed as the holder of the rights in the land book and certificate always faces the possibility of a lawsuit from another party who feels they own the land. PP Number 24 of 1997 concerning Land Registration contains a rule which is considered to be able to overcome the weaknesses of this negative publication system, the rule is contained in Article 32 paragraph (2), that: "In the

<sup>11</sup> Sumarja, FX. (2010). *Hukum Pendaftaran Tanah*. Bandar Lampung: Penerbit Universitas Lampung, p. 46.

event that a land parcel has been legally issued a certificate in the name of a person or a legal entity that acquires the land in good faith and actually controls it, the party who feels that he has the right to the land can no longer demand the implementation of said right if within 5 (five) years after the issuance of the certificate does not submit a written objection to the certificate holder and the Head of the relevant Land Office or not submitting a lawsuit to the Court regarding the ownership of the land or the issuance of the said certificate. The state does not guarantee the correctness of the physical data and juridical data presented and there is no guarantee for the certificate owner because at any time they will get a lawsuit from other parties who feel aggrieved over the issuance of the certificate [12].

Generally these weaknesses are overcome by using "*acquisitieve verjaring*" or "adverse possession" institutions. The National Land Law which uses the basis of customary law cannot use this institution, because customary law does not recognize it. There is a legal institution in Customary Law that can be used to overcome the weaknesses of the negative publication system in land registration, namely the *rechtsverwerking* institution. According to customary law, if someone for a period of time allows their land not to be worked on, then the land is worked on by someone else, who acquired it in good faith, then the right to reclaim the land is lost. The elucidation of Article 32 paragraph (2) PP Number 24 of 1997 ends with the sentence: "With this understanding, what is determined in this paragraph is not the creation of new legal provisions, but rather the application of existing legal provisions in customary law, which in the current legal system is part of the Indonesian National Land Law and at the same time provides a concrete form in the application of the provisions of the BAL regarding the abandonment of land". The *rechtsverwerking* institution originates from the provisions of customary law which are of course unwritten, so the application and considerations regarding the fulfillment of the requirements concerned in concrete cases are in the hands of the judge adjudicating the dispute, where the judge is the decision maker for the parties to the dispute, which makes the land to be has been certified as the object of the case. According to Beodi Harsono, in concrete cases, it is of course the judge who is obliged to weigh the weight of the interests of the litigants [13]. The application of Article 32 paragraph (2)

PP No. 24 of 1997 depends on the judge's consideration of whether this article will bring justice if applied to a problem/dispute over land. Because the crux of the problem in the application of this article is if the Plaintiff is really the owner of the actual land rights and the Defendant actually obtained the land rights in good faith. So whether or not Article 32 paragraph (2) PP 24 of 1997 is applied in the settlement of land disputes lies with the authority of the judge who tried the case. It is the judge who weighs the weight of the interests of the parties to the dispute. "Thus, it is the Court that will decide which means of proof is correct and if it turns out that the data from the Land Registry is incorrect, changes and corrections will be made to the Court's decision [14]. With the existence of land ownership rights and accompanied by evidence of certificates of land rights, legal certainty should be guaranteed before the law and legislation. "The existence of Article 32 paragraph (2) PP Number 24 of 1997 can be applied with the thought that if the certificate is owned within a period of five years before the certificate is strong evidence in accordance with Article 19 UUPA (land registration with a negative system) but if the land certificate has been owned for a period of more than five years, was obtained in good faith, the land is actually owned and no one has raised objections or lawsuits in accordance with Article 32 paragraph (2) PP Number 24 of 1997, the certificate can be perfect evidence (land registration with a positive system).

## 1.2 Registration of Transfer of Land Rights through Government Regulation number 18 of 2021

With the enactment of Government Regulation number 18 of 2021, Government Regulation Number 24 of 1997 is declared no longer valid. Provisions of Article. 32 paragraph (1) Government regulation no. 18 of 2021 has weaknesses, namely the State does not guarantee the correctness of physical data and juridical data. In order to provide legal certainty to the holders of land rights and ownership rights to apartment units, in the Explanation of Article 32 paragraph (1) PP Number 18 of 2021 it is given an official meaning regarding "applies as a strong means of proof". It was explained that the certificate is a letter of proof of rights that applies as the strongest means of proof regarding the physical data and juridical data contained therein, as long as the physical data of the juridical data corresponds to the data in the measurement letter and land title book concerned. "According to the negative system adopted by the land registration system in Indonesia, everything stated in the land certificate is considered correct until it can be proven otherwise

<sup>12</sup> Dwi Satya Permana, I., & Sandi Sudarsana, I. (2014). KEPASTIAN HUKUM SERTIFIKAT HAK MILIK ATAS TANAH SEBAGAI BUKTI KEPEMILIKAN BIDANG TANAH. Kertha Semaya : Journal Ilmu Hukum, . Retrieved from <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/10498>. p. 5

<sup>13</sup> Harsono, B. (2008). Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria,

Isi Dan Pelaksanaannya. Jilid I, Ed. Rev., Cet. 12, Jakarta: Djambatan, p. 482.

<sup>14</sup> Hutagalung, Arie S. (2000). Penerapan Lembaga *Rechtsverwerking* Untuk Mengatasi Kelemahan Sistem Publikasi Negatif Dalam Pendaftaran Tanah. Jurnal Hukum

(incorrect) before a court hearing "Even though the certificate is strong evidence, its validity can still be challenged by other parties supported by strong evidence that can prove otherwise." In this regard, it can be understood that the certificate does not have perfect evidence, because it is still possible to be declared null and void or declared to have no legal force through a court decision. Interested parties can submit a lawsuit to the court to ask the court to decide that a certificate of certain land rights does not have legal force [<sup>15</sup>].

In relation to the strength of proof of certificates of land rights, there is a separate term in the provisions of the law on land, including as stipulated in Article 19 paragraph (2) letter c of the Basic Agrarian Law which states that land registration activities include; "Providing letters of proof of rights, which are valid as a strong means of proof".

## 2. Registration of the Transfer of Land Rights in the Indonesian Legal System Based on the Value of Justice

Land Registration and Property Rights Registration comes from the word cadastre (Dutch Cadastral), a technical term for a record, showing the area, value and ownership of a plot of land. Land registration determines the legal relationship between a person and land as a fixed object. The legal relationship between a person and land as a fixed object is included in land law and is not part of agrarian law. This can be concluded from the definition, Land Law according to Herman Soesangobeng is a collection of regulations governing the synergistic relationship of various branches of law and the legal position of civil rights of people over land as a permanent object, which is controlled to be owned and utilized and enjoyed by humans, both personally as well as in the form of community living together. From the provisions of this article, every land registration activity carried out must start from the measurement, mapping and bookkeeping stages of the land. After the first stage is completed, it is followed by the registration of the land rights including the transfer of these rights at a later date. After the process of registration of rights and the transfer of rights is complete, the final stage is the issuance of a certificate as proof of rights.

The land registration system uses the registration of deed system; Certificates issued as proof of rights are strong, that is, the physical data and juridical data contained in the certificate are considered correct as long as they are not proven otherwise by other evidence.

<sup>15</sup> Ismail, I. (2011). Sertifikat sebagai Alat Bukti Hak Atas Tanah dalam Proses Peradilan. *KANUN : Jurnal Ilmu Hukum*, 13(1), 23-34. Retrieved from <http://www.jurnal.unsyiah.ac.id/kanun/article/view/622> 9. p. 30.

Land registration has an important meaning and has benefits in various aspects of people's lives. In the history of mankind and nations starting from the ground, and it is even said that the first human being was created from the ground. Initially land was a basic need such as for a place to live, fields for cultivating crops and harvesting crops, as well as fields for hunting animals. By registering land rights or granting land rights to all rights subjects, they are also given the authority to use the land according to its designation. In this way, legal certainty guarantees will be created for the subject of rights in the ownership and use of the land. Land registration activities will produce evidence of land rights called certificates.

Land registration is a prerequisite in efforts to organize and regulate allotment, control, ownership and use of land, including to resolve various land issues. Land registration is intended to provide certainty of rights and legal protection for land rights holders by proving land certificates, as an instrument for structuring land tenure and ownership as well as a controlling instrument in land use and utilization.

In the Implementation of the Transfer of Land Rights Due to Sale and Purchase In carrying out the registration of the transfer of land rights by buying and selling, there were several obstacles that resulted in the implementation of the registration of the transfer of rights not being smooth or not being completed on time.

These obstacles include: 1. The incomplete documents needed to carry out the registration of the transfer of ownership rights by way of buying and selling. For example: a photocopy of the identity card of the applicant has not been legalized by the competent authority. 2. In principle, there are no obstacles to land that has been certified, but land for sale and purchase that has not been registered at the Madiun Regency Land Office, so it does not have a certificate. 3. Land as an object of sale and purchase is still in dispute. 4. The people feel reluctant to certify the transfer of their land rights because the cost of paying taxes is relatively expensive and takes quite a long time. Because tax payments must be made before the sale and purchase or transition occurs. And people think that buying and selling under the hands is considered legal and they have legal certainty.

And before signing the deed of sale and purchase of the parties making the sale buying land must pay taxes according to the provisions that have been regulated.

Based on Article 53 paragraph (2) Regulation of the Head of the National Land Agency (BPN) Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning Regulations for the Position of

Officials Making Land Deeds (“Regulation of the Head of BPN Number 1 of 2006”) as amended by BPN Head Regulation No. 23 of 2009 concerning Amendments to the Head of BPN Regulation No. 1 of 2006 concerning Provisions for the Implementation of PP No. 37 of 1998 concerning the Regulations for the Position of Officials for Making Land Deeds, it is stated that filling in blank deeds in the framework of making PPAT deeds must be carried out in accordance with the events, status and correct data and supported by documents in accordance with the Laws and Regulations.

Solutions to the Obstacles Faced in the Implementation of Land Rights Transfer Activities due to Sale and Purchase in Madiun Regency In this case, it explains various solutions to overcome the obstacles that occur during the activities of implementing the transfer of land rights that:

1. Regarding the incompleteness of the files for this case, the Land Office after receiving the files should: a. examine and examine the files. B. record in the form. C. provide a receipt of the application file. D. give the applicant to complete the files through a notification letter. If the applicant has completed the required data, then the application can be continued. Conversely, if the applicant has not completed it then

2. the application can be withheld and may not be continued. This matter

To prevent things that are not desirable:

Regarding the existence of a dispute over the land being requested For cases of dispute relating to the land being applied for, it can be resolved in advance by way of deliberation, in this case the land office can act as an intermediary and suggest that the dispute be resolved. If the dispute can be resolved then the application is processed and then a certificate is issued.

3. The community is reluctant to certify the transfer of their land rights because, according to them, the cost of switching is relatively expensive and time consuming quite a long time. To overcome these obstacles, the land office holding a mass certification program, especially for people who underprivileged so that the need for certificates can be met fairly.
4. The information provided by the parties is dishonest, meaning that they think it's a problem the parties don't need to know, so one day things don't go the way they want, so it's easy to blame the party concerned.
5. The agreement of the parties is not real

The land system in Indonesia refers to the Basic Agrarian Law, namely Law Number 5 of 1960. This law explains that land law in Indonesia is unification. This means that all problems, status, and the legal basis for land in Indonesia must refer to the BAL. In fact, this BAL is a project for the nationalization of land in Indonesia. So that land is indeed owned and

enjoyed by Indonesian citizens, so that foreign citizens do not have rights to land in Indonesia except for the Right to Use. The purpose of enacting the UUPA is in the interests of the Indonesian people themselves to obtain justice, happiness and prosperity in the land sector. Besides that, it also aims to provide legal certainty regarding what land rights may be controlled by the state, the people and customary law communities in Indonesia. In the end, the goal of the national land law system is in line with the objectives of the Republic of Indonesia as mandated in the 1945 Constitution, namely: to provide prosperity and welfare for all Indonesian people. This control is intended not to become property rights, but the state controls the land in the sense that the state is given the right to manage land in Indonesia for the prosperity of the Indonesian people themselves. Third, there is recognition of customary law rights, especially in the field of land which is known for its Ulayat Rights. UUPA itself provides recognition of customary land rights. The concept of Ulayat Rights is in line with Article 6 of the UUPA that land must have a social function. This means that the function of land is not only for personal gain, but more importantly for the benefit of the wider community or for the common good. Fourth, individual land rights also receive recognition from the UUPA such as Property Rights (HM), Cultivation Rights (HGU), Building use rights (HGB), usage rights (HP), endowments and collateral rights over land. Therefore, it is clear that the Indonesian land law system is indeed based on the noble values of the Indonesian nation itself such as togetherness, justice, prosperity and kinship in the control and use of land while adhering to the principle that land must have a social function. That ownership of land is one of the most important material rights in human life. Along with the increasing human population that requires land as space, ownership of land continues to develop, both in terms of the concept of ownership and the laws that govern it. The characteristics of a community, will affect the land law that applies in that community. In its journey, land law in Indonesia was influenced by several legal systems, namely land law inherited from the Dutch Colonial government, known as Western law, customary land law which is an ancestral heritage, and National Land Law.

## D. CONCLUSION

Registration of the transfer of land rights does not guarantee legal certainty and is based on the value of justice. This is influenced by the land registration system used in Indonesia in the form of a negative publication system with a positive tendency. In a negative registration system (negative system) with a positive tendency, the government does not provide guarantees for legal certainty for holders of legal evidence (certificates). The government is also not responsible for the data and information contained in land rights certificates. Data and information are considered correct as long as no other party is suing. So

it is necessary to reconstruct the regulation of the transfer of land rights from a negative system to a positive system.

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